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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,393	05/22/2001	Akitoshi Kojima	P-0105 S	8012
28752	7590	12/17/2004	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			EDOUARD, PATRICK NESTOR	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/856,393	Applicant(s) KOJIMA, AKITOSHI	
	Examiner Patrick N. Edouard	Art Unit 2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-14 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This Office action is in response to communication filed 07/29/2004. Claims 1, 3-7,9-12 and new claims 13-14 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shpiro et al (5,487,671) in view of Lee et al (6,482,011), thereafter "Lee".

As per claims 1 and 7, Shpiro et al teach a pronunciation judgment system comprising (figure 2):

a database for storing reference pronunciation data (his reference audio specimen library 120, col. 5, lines 33-40);

reference voice playback means for outputting a reference voice based on said reference pronunciation data (his reference audio specimen 100, col. 5, line 34-35);

similarity determination means for comparing a user pronunciation data input in correspondence to said reference voice and said reference pronunciation data (his student response specimen scoring unit 160, col. 5, lines 52-56); and

means for informing a user of a result of determination made by said similarity determination means (col. 5, lines 22-28, the student response score is displayed to the student).

It is noted that Shpiro et al teach the claimed invention but does not explicitly teach a database for storing a plurality of reference pronunciation data of a sentence of the same language and corresponding to a pronunciation fluency levels, for the sentence and a user operative member for selecting one of said plurality of pronunciation fluency levels. However, these features are well known in the art as evidenced by Lee who teach in col. 5, lines 11-21, a learning database in which vocabulary data classified by learning levels, index table and start index are stored; and in col. 5, lines 34-40, when the user enters a learning mode execution command corresponding to the learning level the corresponding data from the learning a database is read. Therefore, one having ordinary skill in the art at the time the invention was made would have found it obvious to recognize that vocabulary data classified by learning levels as taught by Lee could be stored into the database of Shpiro with the motivation it would provide a systematic and simple databases that provides an effective learning effect.

As per claims 3 and 9, the combination of Shpiro with Lee teaches wherein said reference voice playback means outputs the reference voice based on said reference pronunciation data corresponding to the selected pronunciation fluency level until said similarity determination means detects agreement of both data (Shpiro at col. 6, line 38-56;

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As per claims 4 and 10, the combination of Shpiro with Lee et al teach wherein said database stores reference pronunciation data of a plurality of pronunciation fluency levels for each of a number of sentences, and said reference voice playback means includes a user operative member for selecting a sentence and a pronunciation fluency level and outputs the reference voice based on said reference pronunciation data corresponding to the selected pronunciation fluency level until said similarity determination means detects agreement of both data.(Shpiro at Col. 5, line 57 to col. 6, line 56).

As per claims 5 and 11, Shpiro et al teach further comprising means for displaying a sentence corresponding to the reference pronunciation data (col. 7, line 61 to col. 8, line 26).

As per claims 6 ,12, 13 and 14 Shpiro et al teach wherein said informing means informs of the agreement of both data (col. 8, line 58 to col. 9, line 15).

4. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231 or faxed to:

(703) 308-9051, (for formal communications intended for entry) Or:

(703) 305-9508 (for informal or draft communications, please label "PROPOSED"

or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 11, 2121 Crystal Drive, Arlington. VA.,Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick N. Edouard whose telephone number is (703) 308-6725. The examiner can normally be reached on Tuesday-Friday from 07:30 a.m.- 6:00 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil , can be reached on (703) 305-9645.

The facsimile phone number for this Art Unit is (703) 305-9508. Alternatively, facsimile messages may be sent directly to (703) 305-9644 where they will be stored in the examiner's voice mailbox (telling the examiner that a fax was received) and be automatically printed (i.e. - no delay by the examiner).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Patrick N. Edouard

December 08, 2004



PATRICK N. EDOUARD
PRIMARY EXAMINER